

Transparency Laws Could Help Solve Our Local Political Ethics Problems

I first became aware of the Tennessee open records law in the fall of 2004 after reading a series of articles in the Commercial Appeal. I was part of a group that was led by John Lunt to elect a Charter Commission. While we were successful in the petition to have the election for the Charter Commission members, we were opposed by the City Council and the Administration as to the date of the election. We won at the Chancery Court level but they took up to the Appellate Court level and we lost. As we citizens brought our suit against the City, I became aware of an inequitable situation that needs correcting. e.g. When we citizens have a legitimate issue that must be pursued through the courts, we must pay all legal costs ourselves; while on the other hand, the Government uses tax funds, which also come from the citizens, to pay their legal costs. Thus, we citizens, in essence, must pay both our own legal costs and the legal costs of our opponent, the Government, as well. A more equitable solution should be found for this discrepancy and I recommend a charter change to allow a citizen to bring a suit and if he wins at the first level he will receive double his attorney's fees and if it is carried to the next level and he wins he will receive three times the fees and if it is carried by the city to the highest level and the citizen wins he will receive four times the fees.

I filed my first open records request in November 2004 with the City Attorney's office (Ms. Sara Hall). I received a prompt reply from her stating that she had gotten my open records request, and I would be hearing from her soon. Christmas came and went, and I had no present under my tree from Ms. Hall. In January of 2005, I sent another letter, but received the sounds of silence as an answer. Then in February, with the help of some lawyer friends, I put together a lawsuit (pro se since I am not a lawyer), and filed it in Chancery Court. By the next day I received a phone call from the City Attorney stating that they had become aware of my issue; and at last they came forward with the information that I asked for, and, thankfully, some \$281 to pay my court filing fee. The information I had asked for was the following.

1. How much has Allan Wade and his law firm been paid by the City, and by the City Council, during the year 2003?
2. How much has Allan Wade and his law firm been paid by the City, and by the City Council, during the year 2004 up to this date? How much has been billed up to this date but as yet unpaid?
3. Do the above payments include a retainer? How much is the yearly retainer if such exists? The City Council 2004 proposed budget shows one staff attorney, but does not show the budget details from the \$1,551,628 proposed expenditures for this service.
4. How much is being paid each month during 2004 in pensions to people who retired under the January 2001 pension change for elected and appointed city officials?
5. What is the future possible monthly liability over and above the money being paid under item 4 if all the people who are qualified under the January 2001 pension change retire after 12 years and start receiving city pensions?

I got the answers to these questions and posted this information on a website. Since that time I have filed many open records requests and continue to publish this information.

However this is a very difficult, time consuming and inefficient way to keep tabs on government. There is no way that the electorate can always select honest and effective politicians who have the taxpaying public's interest at heart. History indicates that showmanship, charisma and money win many elections; and then self interest takes over the actions of the politicians. The only hope for the taxpayers is strong open records laws. Our present Tennessee laws are good but they do not take into account the internet, which is a powerful force today. These laws need to be revised to require at least the following to be put on the internet promptly.

- All RFPs (Request for Proposals), replies to RFPs, contracts, purchase orders, related correspondence and selection justification
- All professional contract awards with related correspondence
- All building projects, related contracts, purchase orders, change orders and correspondence e.g. the FedEx Arena and the Cannon Center and school projects
- All salaries, benefits, pension details, land deals and minutes of meetings
- All budgets, financial statements and audits
- All required election commission documents detailing contributors to and expenditures from all local elected officials needs to be put in an electronic data base so that the public can tell who is contributing to whom and how the contributed money is being spent

I have found that politicians generally hate open records requests. In addition, the longer they serve in office, the more they feel that they know better than those who elected them what the public needs to know and what it is not entitled to know. Only complete transparency in the handling of the public's business can give any assurance that we will get good value for our hard earned tax dollars. It is our money and we are entitled to know how every cent is spent and why.

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